

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 4688 of 2005****For Approval and Signature:****HONOURABLE MR.JUSTICE AKIL KURESHI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Petitioner(s)
Versus
LEGAL HEIRS OF NOORMOHMED IBRAHIM PATEL - Respondent(s)

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Appearance :

MR ASHISH M DAGLI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI**Date : 31/08/2005****ORAL JUDGMENT**

I have heard learned advocate Mr.Dagli for the petitioner. Though served, no one appears for the respondent.

2. In the present petition, the petitioner-Corporation has challenged the legality of the award dated 5th October 2004. By the impugned award, the Corporation is directed to give compassionate appointment to the respondent herein.

3. The father of the respondent Shri Noormohmed Ibrahim Patel was working with the petitioner-Corporation. He expired while in service in the year 1993. Thereafter, his widow was offered compassionate appointment. She, however, represented that the son of the deceased employee should be given appointment on attaining majority. The respondent, i.e. son of the deceased employee turned 18 on 1.6.97. The policy of the Corporation permits such wards of the deceased employees to apply for compassionate appointment within one year of attaining majority. Unfortunately, the respondent applied for compassionate appointment on 8.7.2000 i.e. nearly two years after the deadline. The respondent was, therefore, denied appointment by the petitioner. He, therefore, raised industrial dispute before the Labour Court which came to be allowed by the impugned award dated 5.10.2004. The Labour Court overruled the objection of the petitioner that the application of the

respondent was belated.

4. It is not in dispute that the policy of the Corporation permits the legal heirs of the deceased employees to seek compassionate appointment on attaining majority, however, such applications have to be filed within a period of one year from the date of attaining majority. It is by now well settled that the benefit of seeking compassionate appointment cannot be availed of at any point of time and the same has to be regulated as per the terms of the policy formulated by the employer [see (1994) 4 SCC 138].

5. Learned advocate Shri Dagli appearing for the petitioner has placed reliance on two unreported decisions of this Court, one dated 8th December 1998 passed in Special Civil Application No.5653 of 1998 and another dated 17th February 2001 passed in Special Civil Application No.8693 of 1990 wherein also this Court had taken the view that once the time limit for making an application for appointment on compassionate ground expired it cannot be extended without there being any provision in the Scheme. It can therefore, be seen that the Labour Court erred in allowing the reference by

ignoring the time limit envisaged in the scheme for compassionate appointment. When admittedly, the application was made well beyond the time permitted and there was no specific provision to extend the time limit, it was not open for the Labour Court to provide compassionate appointment in favour of the respondent.

6. In the result, the petition is allowed. The award of the Labour is accordingly set aside. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)